



POLICE DEPARTMENT CITY OF NEW YORK

May 23, 2017

MEMORANDUM FOR: Police Commissioner

Re: Detective Fang Wang
Tax Registry No. 931399
Vice Enforcement Division Zone 2
Disciplinary Case No. 2015-14444

Police Officer Richard Charles
Tax Registry No. 939991
Narcotics Borough Queens North
Disciplinary Case No. 2015-14445

Charges and Specifications:

Disciplinary Case No. 2015-14444

- 1 Said Detective Fang Wang, while on-duty and assigned to Narcotics Borough Queens, on or about January 15, 2015, while in Queens County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective wrongfully searched the vehicle of a person known to the Department without authority or cause to do so.
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT
- 2 Said Detective Fang Wang, while on-duty and assigned to Narcotics Borough Queens, on or about January 15, 2015, while in Queens County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective failed to obtain medical treatment for a person he had detained who requested medical assistance, and further failed to request a supervisor to come to the scene when said person requested one.
P.G. 203 10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT
- 3 Said Detective Fang Wang, while on-duty and assigned to Narcotics Borough Queens, on or about January 15, 2015, while in Queens County, failed to notify the Internal Affairs Bureau, upon observing the use of excessive force by another Member of the Service. (*Dismissed*)
P.G. 207-21 – ALLEGATIONS OF CORRUPTION AND OTHER MISCONDUCT AGAINST MEMBERS OF THE SERVICE

- 4 Said Detective Fang Wang, while on-duty and assigned to Narcotics Borough Queens, on or about January 15, 2015, while in Queens County, failed to make entries into his activity log regarding his police activity, as required.

P.G. 212 08, Page 1, Paragraph 1 – ACTIVITY LOGS

- 5 Said Detective Fang Wang, while on-duty and assigned to Narcotics Borough Queens, on or about January 15, 2015, while in Queens County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective failed to produce his Department identification card when a person he had detained requested to see it.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL CONTACT –
PROHIBITED CONDUCT

- 6 Said Detective Fang Wang, while on-duty and assigned to Narcotics Borough Queens, on or about January 15, 2015, while in Queens County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective failed to produce an arrest report form for a person whom he had handcuffed and placed inside a police vehicle. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 – GENERAL CONTACT –
PROHIBITED CONDUCT

- 7 Said Detective Fang Wang, on or about March 5, 2015, during an official Department interview conducted pursuant to P.G. 206-13, made misleading statements to a Sergeant in the New York City Police Department, to wit: said Detective denied searching the vehicle of a person known to the Department, when in fact he did. (*As amended*)

P.G. 203-08, Page 1, Paragraph 1 PUBLIC CONTACT GENERAL

Disciplinary Case No. 2015-14445

1. Said Police Officer Richard Charles, while on-duty and assigned to Narcotics Borough Queens, on or about January 15, 2015, while in Queens County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer used unnecessary force against a person known to the Department.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT PROHIBITED
CONDUCT

2. Said Police Officer Richard Charles, while on-duty and assigned to Narcotics Borough Queens, on or about January 15, 2015, while in Queens County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer failed to obtain medical treatment for a person he had detained who requested medical assistance, and further failed to request a supervisor to come to the scene when said person requested one.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT PROHIBITED
CONDUCT

- 3 Said Police Officer Richard Charles, while on-duty and assigned to Narcotics Borough Queens, on or about January 15, 2015, while in Queens County, failed to make entries into his activity log regarding his police activity, as required.

P.G. 212-08, Page 1, Paragraph 1 – ACTIVITY LOGS

4. Said Police Officer Richard Charles, while on-duty and assigned to Narcotics Borough Queens, on or about January 15, 2015, while in Queens County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer failed to produce his Department identification card when a person he had detained requested to see it.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT

5. Said Police Officer Richard Charles, while on-duty and assigned to Narcotics Borough Queens, on or about January 15, 2015, while in Queens County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer failed to produce an arrest report form for a person whom he had handcuffed and placed inside of a police vehicle. (As amended)

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT

6. Said Police Officer Richard Charles on or about June 8, 2015 during an official Department interview conducted pursuant to P.G. 206-13, made misleading statements to a Sergeant in the New York City Police Department, to wit: said Police Officer denied physically striking a person known to the Department, when in fact he did.

P.G. 203-08, Page 1, Paragraph 1 – PUBLIC CONTACT – GENERAL

Appearances:

For the Department: Jordan Farnham, Esq. and Cindy Espinosa, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For Respondents: Stuart London, Esq.
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111 John Street, Suite 640
New York, NY 10038

James Moschella, Esq.
Karasyk & Moschella, LLP
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Hearing Dates:
March 28 and 29, 2017

Decision:
Not Guilty

Trial Commissioner:
ADCT Jeff S. Adler

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on March 28 and 29, 2017. Respondents, through their counsel, entered a plea of Not Guilty to the subject charges. The Department Advocate's Office called Omar Rendon, Lieutenant Kenneth Rodgers and Sergeant Gregory Butler as witnesses. Each Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondents Not Guilty of all charges.

FINDINGS AND ANALYSIS

This case involves the interaction between Respondents and Omar Rendon in the parking lot of the College Point Multiplex movie theater in Queens on January 15, 2015. At about 1625 hours, Rendon, who was working as a porter/handyman at the location, and also supervising third-party contractors and security there, was sitting alone in his Acura eating his lunch and watching a show on Netflix. The car was parked in a vacant

area of the lot, with no other cars nearby. Respondents, who were in plainclothes, approached Rendon in their unmarked van. At issue is whether each Respondent committed multiple counts of misconduct in their encounter with Rendon.

Rendon testified that when he saw the van approach he lowered his car window, thinking it might be the building contractors for whom he was waiting. Instead, Respondent Charles approached him and said, "Police, get out of the car." Rendon said that he worked there, and asked what was going on. Respondent Charles then reached inside and unlocked the car door, grabbed Rendon by the shoulders, pulled him out of the vehicle, and slammed him into the side of the Acura. Rendon insisted that he did not resist in any way. Respondent Wang also exited the van and leaned inside the Acura from the driver's side, searching the glove compartment and moving the seats forward and back. Rendon testified that he had some allergy medication inside his glove compartment, about 16 blue pills that were still in their original 20-count package. He denied having any loose pills in the car, or a bag of pills, and maintained that he did not toss any pills onto the back seat. (Tr. 38-41, 91, 104-105, 108, 166) Rendon marked a photograph of the Acura to indicate where he was being held by Respondent Charles (Dept. Ex. 1).

According to Rendon, he told Respondents that he worked there, and asked why they were searching his car without permission. Respondent Charles told him to "shut the fuck up." Rendon said he was a Marine Corps veteran and had two brothers "on the job", and Respondent Charles answered that he should therefore know how to act in this situation. Rendon claimed he didn't see a shield on Respondent Wang and wasn't sure the two men were really officers, even though he admitted he did see Respondent

Charles' shield hanging from his neck. Rendon, [REDACTED], thought that they might be police impersonators, or possibly members of ISIS attempting to kidnap him. Rendon testified that when he asked to see Respondents' identifications, Respondent Charles, for no apparent reason, punched him in the left eye with his fist, and also struck him in the nose and cheek with his forearm on the follow-through. Respondent Charles then turned Rendon around and placed him in handcuffs. (Tr. 51-52, 61, 103, 115, 117-118)

Rendon testified that the Respondents then switched places, with Respondent Wang holding on to him as Respondent Charles searched the Acura. Respondent Wang went inside Rendon's pockets, took out his wallet, and searched through it. Rendon claimed that he did not struggle with the officers, was "completely compliant", and remained "docile" throughout the encounter. Nevertheless, after Respondent Charles emerged from the Acura, the two officers walked Rendon to the rear of the police van. Rendon was shoved inside the van, where he remained for the next 15-20 minutes. According to Rendon, he banged his knee on the floor of the van when pushed, yet he chose to remain on his knees inside the van rather than sit on a bench. Rendon also claimed he was bleeding from his nose, and he spit blood on the floor and walls of the van as evidence of this occurrence. While in the van, Rendon repeatedly screamed "I'm bleeding." (Tr. 52-55, 89, 119-120, 123)

From inside the van, Rendon heard the voice of a security guard he supervised, Person A. Rendon claimed he screamed out to Person A to call his boss Person B, but received no response. He also stated that he heard what sounded like the sliding of car seats inside the Acura and the trunk being slammed shut. Respondents eventually opened

the van doors and Respondent Charles asked him if he was calm yet. Rendon exited the van and asked for a supervisor and an ambulance, but received no meaningful response. Instead, Respondents returned to their van and drove away from the scene, though not before Rendon tried to block them from leaving and took a photograph of the van's license plate. (Tr. 56-59, 124, 130, 181; Dept. Ex. 2)

Rendon returned to his Acura, the contents of which had been tossed around, and pursued the police van for about 5-10 minutes before losing it. Rendon returned to the scene, spoke with Person A, and called 911 to report what had occurred. (Tr. 64-66, 79) His first call from the scene was disconnected, so he called back a second time. A recording of the two calls, and the accompanying transcripts, were admitted into evidence (Dept. Ex. 4, 4A, 4B). In the calls, Rendon sounds relatively calm as he reports being assaulted by two police officers or impersonators, who approached in a van, "came out with

badges ", punched him in the face, handcuffed him, and threw him in the back of the van while they searched his car. When asked if he suffered any injuries, Rendon states that he has a swollen left eye, but says he doesn't want to wait at the scene for an ambulance. (Dept. Ex. 4B at 3, 8)

Rendon went to the 109th precinct to give a statement. Paramedics came and offered to transport him to the hospital, but Rendon chose instead to wait for IAB to come to the precinct. IAB did not appear, and so Rendon went to North Shore University Hospital that evening, where x-rays of his face, knee, and right shoulder were taken, and Motrin was provided. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Rendon claimed he

was told at the hospital and by a private doctor that he had a deviated septum, though there is no mention of it in the medical records. Also, Rendon provided photographs of his injuries taken by his brother at the hospital that night (Dept. Exs. 6A-6E). Rendon acknowledged that he has resolved a lawsuit he brought against the City in connection with this matter, settling for a sum of money equivalent to more than two years' salary. (Tr. 72-75, 81, 98, 135, 139)

Lieutenant Kenneth Rodgers of IAB testified that the day after the incident, he interviewed Rendon in person. The lieutenant noticed that Rendon had a red mark over his left eyelid, but saw no red mark under Rendon's eye, and no swelling or any other apparent injury. (Tr. 200, 204) Lieutenant Rodgers also interviewed the witness Person A on January 16. Person A did not appear to testify. Instead, a recording of his statement, with the accompanying transcript, were admitted into evidence. (Dept. Ex. 7, 7A) To be sure, it is preferable to have a live witness, subject to cross-examination, where the court can observe the witness' demeanor. In the absence of this witness here, this tribunal listened carefully to the prior recorded statement of Person A, and reviewed the accompanying transcript.

In his interview, Person A stated that while doing his patrol he saw both Respondents searching Rendon's vehicle, one on the driver's side and one on the passenger's side. He also claimed to see one of them go to the trunk, though he couldn't remember which one. Person A did not see Rendon there at the time, but did see him back at the location about 20- 25 minutes later. According to Person A, Rendon looked "shaken". Person A did not observe any bleeding, but stated, "I think his eye was red" under the eye. Person A went with Rendon to the precinct, where Rendon told him what had occurred. (Dept. Ex. 7A at 2, 6-

7, 13, 19) Person A described each of the Respondents, but he did not identify either in photographs he was shown by Lieutenant Rodgers. (Dept. Ex. 7A at 16-19)

Sergeant Gregory Butler, formerly with OCCB Investigations, testified that he retrieved and reviewed Respondents' memo books from the date of the incident (Dept. Ex. 8, 9). He also obtained the Stop, Question and Frisk report ("UF-250") prepared by Respondent Wang (Dept. Ex. 10). The sergeant was present for the Department interviews of each Respondent, and introduced a two-page portion of each interview that contained allegedly misleading statements (Dept. Ex. 11, 12).

According to Sergeant Butler, Respondents' encounter with Rendon was an arrest situation, and so Respondents erred in failing to prepare a "voided arrest report." He based this conclusion on the understanding that after the officers had confirmed that the pills they recovered from the car were not illegal narcotics, they continued to hold Rendon for an additional 10 minutes. However, the sergeant apparently did not take into account that *after* checking the pills, Respondents also called their supervisor for a name check on Rendon, as well as a computer check on his car. The sergeant also acknowledged that if the officers, believing there were illegal drugs in the car, had handcuffed Rendon and placed him inside the police van while they investigated, that would constitute proper police work. Sergeant Butler also testified that he met Rendon for the first time on January 30, did not recall seeing any swelling on the complainant's face, and did not note any other injury. (Tr. 232-233, 235, 238-9, 242-3)

Respondent Charles testified that on the day of the incident, he was working in Queens North Narcotics, investigating "kite" locations where there had been reports of narcotics activity. On the way to one such location, he and Respondent Wang entered the

movie theater parking lot, where there had been narcotics arrests in the past. Respondent Charles observed Rendon sitting inside a vehicle in a desolate area of the lot, with the car not parked within the designated parking lines. Respondents pulled up to Rendon's vehicle, and from a distance of about five feet observed the occupant with his head down, holding what appeared to be some blue pills in his hands. (Tr. 281-284, 311)

According to Respondent Charles, he and his partner exited their van to investigate, and saw Rendon throw the pills onto the passenger's and driver's seats. Respondent Charles said to Rendon, "Police," and asked him to please step out of the vehicle. Rendon said he was not going to come out of the car, so the officer asked him again to exit. When Rendon again refused, Respondent Charles opened the car door, and with the help of his partner physically removed Rendon from the vehicle, who was resisting by holding his hands tight against his sides. Once removed, Rendon began yelling, screaming and moving around, so the officers each grabbed an arm and handcuffed Rendon. Even though Respondent Charles had his shield displayed around his neck, Rendon questioned whether he and Respondent Wang were cops. Respondent Charles told Rendon that he was an officer. Rendon did not ask to see his identification at that point. (Tr. 285-287, 315, 322)

Respondent Charles testified that Rendon continued to yell and scream, so for the officers' safety they placed him inside the police van to allow them to investigate the pills they had seen him throw. Respondent Charles insisted that at no point did he punch or elbow-strike Rendon, and there was no screaming heard from inside the van. Respondent Charles went to Rendon's car and recovered several loose blue pills from the driver's seat and passenger's seat, and there may have been some pills in the backseat as well.

Additionally, Respondent Charles recovered a clear plastic bag containing approximately 300 of the loose blue pills from the passenger-side floor of the vehicle. (Tr. 288-291, 302, 318)

Suspecting that the pills might be oxycodone, Respondent Charles used his phone application to check out the pills, which turned out to be acetaminophen, essentially a generic form of Aleve for "severe allergy and sinus headache"; a printout of the information page he viewed on the application was introduced into evidence (Resp. Ex. A). Realizing that the pills were not an illicit substance, Respondent Charles then called his sergeant, informed him of the encounter, and asked for a warrant check on Rendon and a vehicle check on the Acura. When the checks came back negative, Respondent Charles informed his sergeant that they were going to cut Rendon loose. (Tr. 293-296, 323-324) The officers immediately removed Rendon from the van, uncuffed him, and asked him why he had so many pills. The complainant apologized for his earlier behavior, [REDACTED], and needed the pills for headaches. (Tr. 289, 297-300) Respondent Charles did not observe any bleeding, red marks, or injuries on Rendon, nor did Rendon request medical attention or a supervisor. The officer testified that he was not aware of anything in his interaction with Rendon that could have led to the injury above or below his eye illustrated in the photograph 6A. (Tr. 302-303, 328)

Regarding his activity log, Respondent Charles testified that he wrote down the details of the encounter in his memo book after they left the scene. The officer explained that there was no enforcement entry before or after this incident on that day because he had not taken any police action during those time frames. (Tr. 304-307) Respondent

Charles also testified that he did show his shield and police identification card to Rendon before releasing him. (Tr. 308-309)

Respondent Wang essentially corroborated his partner's account. He testified that as they pulled up to Rendon's vehicle, he observed the occupant throw some blue pills over his shoulder. Respondent Charles, from the passenger seat, exited the van immediately and approached the car. By the time Respondent Wang exited the van and joined his partner, the car door already had been opened. Respondent Wang identified himself as "Police", and instructed Rendon to step out. Rendon refused to exit, so the officers grabbed Rendon and pulled him from the vehicle. Even though Respondent Wang had his shield displayed on his waistband, Rendon repeatedly questioned whether they really were police officers. Once removed from the car, Rendon struggled with the officers, pushing, shoving, and "tightening up" to prevent being handcuffed. As a result, Respondent Wang got pushed backward. The officers turned Rendon toward his car and placed him in handcuffs. Neither officer punched Rendon or hit him with a forearm, nor was any other force used. (Tr. 338, 340, 343-344, 347, 367-368, 373-374)

Rendon continued to struggle, and so Respondent Charles opened the rear police van door and Respondent Wang assisted Rendon as he stepped inside the van so the officers could investigate without his interference. Respondent Wang testified that Rendon was not bleeding and did not have any visible injuries, and there was no screaming heard from inside the van. When Respondent Wang turned back toward the Acura, he saw that Respondent Charles had already retrieved the pills from the car. Respondent Charles then used his phone to check whether the pills were an illicit substance, which they were not. Respondent Wang insisted he remained by the rear of

the van, and never entered Rendon's car. The detective briefly opened the van door to get pedigree information from Rendon, which he recorded in his memo book.

Respondent Charles then called their sergeant to do a plate check and warrant check, which came back negative, and so Rendon was immediately uncuffed and released.

Respondent Wang returned to the passenger seat of the van, while his partner briefly spoke with Rendon. According to Respondent Wang, Rendon never asked for a supervisor and never asked to see his identification card. (Tr. 350-360, 366, 377, 380)

Later at the command, Respondent Wang provided his sergeant with the UF-250 report he had prepared. At no point did the sergeant instruct him to prepare a voided arrest report. (Tr. 365)

In attempting to prove the accusations against Respondents, the Department Advocate relies significantly on the testimony of Rendon. Although generally consistent in his account, Rendon's motivation in this matter is questionable: he appeared more concerned with capitalizing on the encounter than telling the complete truth. On the 911 recording, Rendon can be heard saying, "I wish they were cops. I swear to God if they are..." The incident occurred on a Thursday, and by Saturday Rendon had retained an attorney to file a lawsuit against the City, which he has since settled for a sum exceeding two-years' salary.

Toward that end, Rendon often appeared to be exaggerating the details of what occurred on January 15. His claim that he was completely compliant with the officers and that Respondent Charles, for no reason, punched the 5'4", 130 lbs. Rendon in the face with a closed fist, did not have the ring of truth to it. Rendon's description of his injuries, when compared with the medical records and the observations of others, seemed

embellished as well, and his claim that he was bleeding from his nose to the point where he was spitting blood onto the floor and wall of the police van to preserve evidence had no precise corroboration. Rendon told the 911 operator that he did not need an ambulance, and at the precinct he chose to wait for IAB rather than accompany EMS medics to the hospital. Also unpersuasive was Rendon's uncorroborated testimony that he was screaming for help from inside the van; Rendon testified he could hear the security guard Person A talking with the officers outside the van, yet in his statement Person A makes no mention of hearing any screaming while at the scene with the officers.

It also was internally inconsistent how Rendon repeatedly questioned whether Respondents were officers. Rendon, in his 911 call, stated that *they* "come out with badges" (emphasis added), which was contrary to his claim at trial that he didn't see Respondent Wang's shield. It was clear to Person A that Respondents were officers. Particularly telling was Rendon's decision to inform Respondents that he had two brothers on the job; this tribunal does not believe that he would have made that comment unless he believed Respondents were, in fact, officers, and he was attempting to garner professional courtesy from them. Rebuffed in that effort, Rendon retaliated by intensifying his accusations against the officers.

Person A provided some corroboration for Rendon, claiming he saw both officers searching Rendon's car. However, in his statement Person A conceded that he spoke with Rendon at the precinct, and Rendon told him what had happened. Since Person A did not appear to testify, counsel had no opportunity to cross-examine him on whether his account was influenced by what Rendon, his supervisor, had told him. Person A's claim that when he saw Rendon about 20-25 minutes after the incident he appeared shaken is called

into question by how calm and composed Rendon sounds on the 911 call, which Rendon made in the presence of Person A.

Both Respondents, in contrast, provided detailed, logical testimony regarding their encounter with Rendon. Their descriptions of how they approached Rendon's isolated vehicle to investigate was reasonable, as was their accounts of how they interacted with an uncooperative Rendon. Respondents' testimony of what transpired was consistent. They each appeared professional and earnest on the witness stand, and I found their version of events to be credible.

It is in this context that we review each of the specifications, beginning with Respondent Charles.

Specification 1 alleges that Respondent Charles used unnecessary force against Rendon in that he struck Rendon in the face with his fist and his forearm. Rendon testified that the Respondent punched him for no reason, claiming that he was not struggling in any way with the officers. Both Respondents denied that Respondent Charles punched Rendon, even if neither Respondent could account for how precisely the injury above Rendon's eye occurred.

Both the medical records and photographs provide corroboration that there was some bruising above Rendon's left eye, and some redness around the cheekbone. Lieutenant Rodgers observed the former injury, though not the latter. In his 911 calls, Rendon mentioned that he had suffered a swollen eye. What's unclear, though, is how precisely that injury was caused. Notwithstanding Rendon's claim to the contrary, this tribunal finds that Rendon was uncooperative with the officers' attempt to have him exit his vehicle, and he struggled with them as they handcuffed him, put him against the car,

and then placed him inside the van; Rendon may very well have sustained these superficial injuries while this was happening, unbeknownst to the Respondents. Given the manner in which he inflated his description of the incident, particularly the way he insisted he was completely compliant, this tribunal is not persuaded by Rendon's claim that Respondent Charles, without any provocation, punched him in the eye with a clenched fist and struck him in the face with his forearm as well. Further, as counsel for Respondent argued, had the 6'1", 230 lbs. officer really punched him in the manner alleged, the injury likely would have looked worse than what's depicted in the photograph and medical records. Moreover, both Respondents were consistent and credible in their denial that any such punch occurred. Respondent Wang's testimony, in particular, was compelling as he maintained that Rendon's version was untrue, and insisted, with tears in his eyes, "My partner didn't hit him."

The record has failed to establish, by a preponderance of the credible evidence, that Respondent Charles used unnecessary force against Rendon, and I find him not guilty of Specification 1.

Specification 2 against Respondent Charles alleges that he failed to obtain medical treatment for Rendon, and failed to call a supervisor to the scene. Rendon claimed that he was bleeding at the scene and asked for an ambulance, as well as a supervisor for what he felt was his mistreatment at the hands of the officers. Respondents both denied seeing any injuries on Rendon at the scene, and insisted he never requested medical assistance or a supervisor, and I credit their testimony. Again, in light of the way in which Rendon fabricated his account, including the extent of his injuries, this tribunal is not persuaded that he ever made a request for medical assistance or supervisor. Indeed,

when asked by the 911 operator if he needed an ambulance, Rendon declined. At the precinct, Rendon opted to wait for IAB rather than go with the medics to the hospital.

The credible evidence does not support this accusation, and I find Respondent Charles not guilty of Specification 2.

Specification 3 charges Respondent Charles with failure to make entries in his activity log. The Department Advocate argues that Respondent Charles did not indicate in his memo book his jobs before and after this incident. However, Respondent Charles credibly explained that during those time frames, he was not involved in any police action, which is why there was no such entries in his log.

The Advocate also argues that Respondent omitted details from his memo book, such as information about Rendon's vehicle. However, a review of Respondent Charles' activity log (Dept. Ex. 8) reveals that the officer was extremely thorough in his entries. He listed the name of the person stopped, the location and time of the stop, the pills that were observed, Rendon's combative behavior leading to his being handcuffed, the check of the pill, and the subsequent release of Rendon. The officer also wrote down statements made by Rendon, including that his brothers are cops [REDACTED]

[REDACTED] Respondent noted in his memo book Rendon's apology to the officers, and his explanation that he needs the pills for headaches. Sergeant Butler, himself, conceded that the entries were "very detailed." Under the circumstances, this tribunal is not at all persuaded that Respondent Charles committed misconduct in connection with his activity log, and I find him not guilty of Specification 3.

Specification 4 against Respondent Charles alleges that he failed to produce his Department identification card when requested to do so by Rendon. Respondent Charles

credibly testified, though, that he did show his shield and identification card to Rendon at the scene. Again, in light of Rendon's repeated overstatements about what occurred, this tribunal is not persuaded by his accusation regarding the identification card. As noted above, the fact that Rendon chose to tell Respondents that he had two brothers on the job suggests he really was satisfied that Respondents were officers. The record has failed to establish, by a preponderance of the credible evidence, that Respondent Charles failed to produce his identification card, and I find him not guilty of Specification 4.

Specification 5 alleges that Respondent Charles failed to produce an arrest report despite handcuffing Rendon and placing him inside a police vehicle. It is argued that even though Rendon was released without charges, in the very least the officers should have prepared a "voided arrest report" to reflect how Rendon was in their custody. It is undisputed that no such report was prepared; instead, Respondent Wang prepared a "250" report indicating the detention of Rendon. The issue is whether an arrest report was, in fact, required under the circumstances of this encounter.

Sergeant Butler initially testified that Respondents' encounter with Rendon was an arrest situation, requiring them to prepare a voided arrest report. He based this conclusion on his understanding that after the officers had confirmed that the pills they recovered from the car were not illegal narcotics, they continued to hold Rendon for an additional 10 minutes. However, as noted above, the sergeant apparently was unaware that in addition to checking the pills, Respondents thereafter also did a name check on Rendon, as well as a computer check on his car. The fact that these additional checks were done was corroborated by Sergeant Butler, and Lieutenant Rodgers specifically confirmed that a computer check of the Acura was made by Respondents' supervisor.

Sergeant Fiorello, at 1638 hours. After the checks came back negative, Rendon promptly was released.

Under the circumstances, this tribunal agrees with Respondents that no arrest report was required here. Rendon was briefly detained while the officers investigated the pills they had observed and were recovered from the car. Since Rendon was aggressive and uncooperative with the officers' efforts, he was temporarily handcuffed and placed in the police van to allow the officers to conduct their investigation safely and expeditiously. This they did, and then immediately released Rendon without charging him with an offense. Also, this was not a situation where Respondents were looking to hide what had occurred, since a UF-250 was prepared and they each recorded what transpired in their memo books. They also enlisted the assistance of their immediate supervisor during the stop. Since Respondents reasonably treated this encounter as a non-arrest situation, the officers were not required to prepare an arrest report, and I find Respondent Charles not guilty of Specification 5.

Specification 6 against Respondent Charles alleges that he made a misleading statement during his Department interview on April 29, 2015. Specifically, it is charged that he falsely denied physically striking Rendon. When asked whether he ever punched Rendon in the face, Respondent Charles answered that he did not. (Dept. Ex. 11)

However, as discussed in Specification 1, above, the credible evidence has failed to establish that Respondent Charles did punch Rendon in the face. This tribunal has credited the testimony of both Respondents that no such punch occurred. Accordingly, Respondent Charles' statement during his Department interview was not misleading, and I find him not guilty of Specification 6.

With respect to Respondent Wang, Specification 1 charges him with wrongfully searching Rendon's vehicle. In his hearsay statement, Person A claims to have seen both officers searching the vehicle. However, he also admitted that he spoke with Rendon at the precinct, and that Rendon told him what had happened. It would have been useful to have seen Person A cross-examined on how much of his account was influenced by what he was told by Rendon, his supervisor, but Person A did not appear to testify.

Rendon, himself, did not observe this alleged search, since he was inside the police van. He did claim, however, that before he was placed in the van, Respondent Wang leaned in to search the car. According to Rendon, the officers then switched places and Respondent Charles searched the car as well. This story about the officers switching places to both search the car appears to be another one of Rendon's distortions, an attempt to place responsibility on both Respondents for an unlawful search. Indeed, in his written complaint that he filed with the CCRB on the night of the incident, Rendon never even mentioned seeing Respondent Wang search his vehicle.

This tribunal finds Respondents' account of the vehicle search to be more plausible and credible. While Respondent Wang was placing Rendon inside the police van, Respondent Charles was retrieving the pills from Rendon's vehicle. By the time Respondent Wang turned to his partner, Respondent Charles was in the process of identifying the pills with his phone application, and there was no reason for Respondent Wang to search the Acura. The credible evidence has not established that Respondent Wang ever searched Rendon's vehicle, and I find him not guilty of Specification 1.

Specification 2 alleges that Respondent Wang failed to obtain medical treatment for Rendon, and failed to call a supervisor to the scene. For the same reasons discussed

above with regard to Respondent Charles, the credible evidence does not support this accusation, and I find Respondent Wang not guilty of Specification 2.

Specification 3 against Respondent Wang was dismissed by the Department Advocate prior to trial.

Specification 4 alleges that Respondent Wang failed to make entries in his activity log. The Advocate argues that Respondent omitted details from his memo book, such as information about Rendon's vehicle, and that the time indicating when he resumed patrol was off by a few minutes. A review of Respondent Wang's activity log (Dept. Ex. 9) reveals that while it was not as thorough as his partner's, he did note the essential details of the encounter. He listed the time and location of the stop, and that it was determined that the blue pills were not a controlled substance. Respondent Wang also wrote down Rendon's name and pedigree information. Under these circumstances, the credible evidence has not established misconduct on the part of Respondent with respect to his activity log, and I find him not guilty of Specification 4.

Specification 5 against Respondent Wang alleges that he failed to produce his Department identification card when requested to do so by Rendon. However, Respondent Wang testified credibly that his shield was in plain view on his waist during the entire encounter, and that Rendon never asked to see his identification card. Rendon conceded that most of his conversation during the incident was with Respondent Charles, and even testified at one point that he didn't recall having any verbal interaction with Respondent Wang. This tribunal is not persuaded by the credible evidence that Rendon ever asked to see Respondent Wang's Department ID, and I find him not guilty of Specification 5.

Specification 6 alleges that Respondent Wang failed to produce an arrest report despite handcuffing Rendon and placing him inside the police van. For the same reasons discussed above with regard to Respondent Charles, the credible evidence does not support this accusation, and I find Respondent Wang not guilty of Specification 6.

Specification 7 against Respondent Wang alleges that he made misleading statements in his Department interview. Specifically, it is charged that he falsely denied searching Rendon's vehicle. When asked whether he ever searched the car, Respondent Wang answered no. Even after being told that a witness had seen him searching the vehicle, Respondent Wang maintained that he had not searched it. (Dept. Ex. 12)

As discussed in Specification 1, above, the credible evidence has failed to establish that Respondent Wang did search Rendon's vehicle. This tribunal has credited the testimony of Respondent Wang that no such search occurred. Accordingly, Respondent Wang's statement during his Department interview was not misleading, and I find him not guilty of Specification 7.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

JUL 13 2017
James P. O'Neill
JAMES P. O'NEILL
POLICE COMMISSIONER